UNITED STATES OF AMERICA DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT Washington, D.C.

In the Matter of:

PATRICIA SOEHNGE,

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Respondent

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Respondent

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DEBARRING OFFICIAL'S DETERMINATION

By Notice dated July 5, 2006 ("Notice"), the Department of Housing and Urban Development ("HUD") notified the Respondent, PATRICIA SOEHNGE, that HUD was proposing the Respondent's debarment from future participation in procurement and nonprocurement transactions as a participant or principal with HUD and throughout the Executive Branch of the Federal Government for a period of four years from the date of the final determination of the proposed debarment action. HUD also advised Respondent that the suspension HUD imposed on May 25, 2005 was terminated. The July 5, 2006, Notice further advised the Respondent that the proposed debarment was based on Respondent's conviction in the United States District Court for the District of Colorado for violating 18 U.S.C. 1343 and 2 (Wire Fraud and Aiding and Abetting). Respondent's conviction resulted in a sentence of 18 months' imprisonment and three years' supervised release. HUD also proposed as a further basis for Respondent's debarment, Respondent's alleged violation of the May 25, 2005, suspension that HUD had imposed on her. ¹

A hearing on Respondent's proposed debarment was held in Washington, DC on October 18, 2006, before the then-Debarring Official's Designee, Mier Wolf.² Respondent appeared *pro se*, and though unable to be present in person at the hearing, testified and otherwise participated in the hearing by phone. Stanley Field, Esq. appeared on behalf of HUD.

¹ HUD alleges that while Respondent was under suspension from participation in HUD programs based on her indictment, Respondent attempted to purchase a single family home using HUD/FHA financing. Respondent vigorously denied in her papers and also at the hearing that it was her intent to procure HUD/FHA financing to purchase the home. Although this allegation may raise disputed material facts that could be referred for a finding of facts, Respondent's conviction provides a sufficient basis for her debarment and for the period of debarment imposed here. See 24 CFR 24. 850 and 855. Accordingly, the Determination today is based solely on Respondent's conviction for violating 18 U.S.C. 1343 and 2.

² Mier Wolf retired from HUD in December 2006, after hearing this matter. Mr. Wolf left the complete written record of all the filings and submissions in this matter. Additionally, a tape recording of the October 18, 2006, hearing is part of the record. The Debarring Official's Designee, Mortimer F. Coward, who assumed Mr. Mier's duties after his retirement, therefore, had the benefit of reviewing the complete record in this matter, including the

I have decided, pursuant to 24 C.F.R. part 24, to debar Respondent from future participation in procurement and non-procurement transactions, as a participant, principal, or contractor with HUD and throughout the Executive Branch of the Federal Government, for a period of three years from the date of this Determination. My decision is based on the administrative record in this matter, which includes the following information:

- (1) The Notice of Proposed Debarment and Termination of Existing Suspension issued by HUD to Respondent dated July 5, 2006.
- (2) Respondent's letter of July 17, 2006, addressed to the Department of Housing and Urban Development.
- (3) Respondent's letter of August 9, 2006, to Mier Wolf.
- (4) Mier Wolf's letter of August 25, 2006, to the Respondent.
- (5) Mier Wolf's letter of September 13, 2006, to the Respondent.
- (6) Respondent's letter of September 19, 2006, to Stanley Field.
- (7) The Department's Motion for Decision on the Record filed September 21, 2006.
- (8) Respondent's letter of September 22, 2006, to Mier Wolf.
- (9) Mier Wolf's letter of October 12, 2006, to Theresa Webb, Prison Counselor.
- (10) The Government's Pre-Hearing Brief in Support of a Four-Year Debarment (including all attachments and exhibits thereto) filed September 19, 2006.
- (11) The tape recording of the October 18, 2006, telephonic hearing.

As noted above, HUD proposed Respondent's debarment for a period of four years based upon Respondent's conviction following a guilty plea in the U.S. District Court for the District of Colorado to one count of Wire Fraud and Aiding and Abetting same. The Superseding Indictment originally charged Respondent and others with 21 counts involving an illegal scheme to defraud HUD using, among other things, false documents and fraudulent information to assist illegal aliens or otherwise unqualified applicants to obtain loans backed by FHA mortgage insurance. Respondent's and her coconspirators' actions resulted in HUD/FHA suffering thousands of dollars in financial losses.

HUD proposed Respondent's debarment for four years from the date of the final determination. HUD contends that, because of Respondent's criminal conduct, Respondent "cannot be relied upon to act with the candor and probity necessary for HUD to administer its programs." Further, HUD argues that Respondent's commission of the offenses for which she was convicted "indicates a lack of business integrity or business honesty that seriously and directly affects [Respondent's] present responsibility." Additionally, HUD contends that Respondent's "conspiracy and fraud directly caused a loss to the FHA fund," which the Respondent acknowledged in her Guilty Plea Agreement and Settlement Agreement and her agreement to pay HUD restitution of \$41,734.41. Accordingly, HUD concludes that Respondent's past conduct demonstrates a lack of present responsibility, thus a four-year debarment is warranted.

tape recording of the October 18, 2006, proceedings, in making his recommendation to the Debarring Official with respect to Respondent's debarment.

In Respondent's appeal of HUD's action to debar her, Respondent acknowledges the criminal wrongdoing that led to her conviction. Respondent, both in her submissions and at the hearing, devoted much time to protesting her lack of intent in applying for a HUD/FHA mortgage, insisting that it was her and her husband's intent to apply for a conventional mortgage. Respondent argued that she was well aware of her legal disability at the time of completing the loan application. Consequently, she would not knowingly have applied for a HUD/FHA insured mortgage. Respondent blames an unrelated party for the completed application being submitted as an application for an FHA, not conventional, loan. For the reasons cited above, this Determination does not reach that issue, thus Respondent's arguments are superfluous and do not affect this Determination.

Findings of Fact

- 1. Respondent was a real estate agent.
- 2. Respondent conspired with others to sell homes that were financed with HUD-insured mortgages to unqualified buyers.
- 3. Respondent furthered the illegal conspiracy by preparing and using false and fraudulent documents to effect the sales transactions.
- 4. As a consequence of Respondent's illegal actions, HUD suffered financial losses.
- 5. Respondent pleaded guilty and was convicted of one count of Wire Fraud and Aiding and Abetting.
- 6. Respondent was sentenced to 18 months' imprisonment and three years' supervised release for her criminal conduct.
- 7. As part of her criminal sentence, Respondent was ordered to pay restitution.
- 8. Respondent has not yet made restitution to the government of the losses suffered as a result of her criminal acts.
- 9. Respondent is currently serving her prison sentence.

Conclusions

Based on the above Findings of Fact, I have made the following conclusions:

- 1. Respondent was a participant in a covered transaction as defined in 24 CFR part 24.
- 2. Respondent admits her wrongdoing and accepts responsibility for her criminal conduct.
- 3. Respondent's involvement in this matter raises grave doubt with respect to her business integrity and personal honesty.
- 4. HUD has a responsibility to protect federal funds and the public interest.
- 5. HUD cannot effectively discharge its responsibility to the public if participants in its programs fail to act with honesty and integrity.
- 6. Respondent has not made restitution ordered by the court as part of her sentence.
- 7. Respondent had no prior record with HUD involving wrongdoing on her part, nor a criminal record before her conviction for the offenses recited above.

³ See n.1, supra.

8. Respondent's conviction provides the basis for debarment under 24 CFR 800(a). Based on the foregoing, including the Findings of Fact, Conclusions, and the administrative record, I have determined to debar Respondent for three years commencing on the date of this Determination. In accordance with 24 CFR 24.870(b)(iv), Respondent's "debarment is effective for covered transactions and contracts that are subject to the Federal Acquisition Regulation (48 CFR chapter 1), throughout the executive branch of the Federal Government unless an agency head or an authorized designee grants an exception."

Dated: \ \ May Z007

Henry S. Czauski Debarring Official

Departmental Enforcement Center